

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of)	Confirmation No.: 6610
)	
Michael Kirkwood, et al.,)	Group Art Unit: 2161
)	
Serial No.: 09/823,819)	Examiner: Brian D. Goddard
)	
Filed: March 30, 2001)	

For: BUSINESS VOCABULARY DATA STORAGE USING MULTIPLE
INTERRELATED HIERARCHIES

LETTER TO EXAMINER WITH REFUND DEMAND

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

With this letter the Applicant has filed a petition for revival of the above-identified application and a Notice of Appeal. The Applicant has had to take these actions solely because the Office failed to timely mail a Notice of Allowance, or another Office Action, in reply to the Applicant's timely reply to the last, final Office Action, even though PAIR shows that a Notice of Allowability has been "counted" in the case.

Applicant's representative is aware that the Office recently instituted a procedure in which an Examiner prepares a Notice of Allowability that is "counted," but no Notice of *Allowance* is mailed at that time, and the case is referred to a contractor to perform "Dialog template searching" before the case can be cleared for allowance. In this case, some seven (7) months have elapsed without resolution of such searching.

This is not an isolated case. Applicant's representative is aware of other cases in which even longer delays have occurred. Respectfully, the new procedure **is not working**, and is costing this and other applicants thousands of dollars in unnecessary fees, and causing

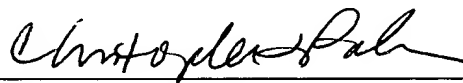
unwarranted delays in processing meritorious cases. The Applicant would appreciate anything that can be done to inform USPTO management about the problems inherent in this procedure, and the manifest unfairness of a process that virtually guarantees that an applicant must spend thousands of dollars to maintain a case and, ultimately, merely increases the number of cases in the docket of the Board of Appeals and Interferences.

Further, if a Notice of Allowance ultimately issues in this particular case, all fees involved in this submission ought to be refunded *sua sponte* by the Office, and Applicant hereby demands such a refund.

Respectfully submitted,

HICKMAN PALERMO TRUONG & BECKER LLP

July 21, 2005



Christopher J. Palermo
Reg. No. 42,056

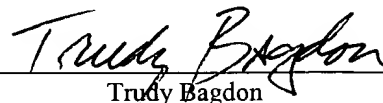
2055 Gateway Place, Suite 550
San Jose, CA 95110-1089
Tel. No. (408) 414-1080
Fax No. (408) 414-1076

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

on July 21, 2005

By


Trudy Bagdon

FREE TRANSMITTAL **for FY 2005**

Patent fees are subject to annual revision,
Small Entity Payments must be supported by a small entity statement,
otherwise large entity fees must be paid. See Forms PTO/SB/09-12
See 37 C.F.R. §§ 1.27 AND 1.28

TOTAL AMOUNT OF PAYMENT (\$)**2,180.00**

Complete if Known

Application Number 09/823,819
Filing Date March 30, 2001
First Named Inventor MICHAEL KIRKWOOD
Examiner Name BRIAN D. GODDARD
Group/Art Unit 2161
Attorney Docket No. 50325-0528

METHOD OF PAYMENT (check one)

1. ☒ Throughout the pendency of this application, please charge any additional fees, including any required extension of time fees, and credit all overpayments to deposit account 50-1302. A duplicate of this sheet is enclosed.

Deposit Account Number 50-1302

Deposit Account Name Hickman Palermo Truong & Becker, LLP

2. ☒ Payment Enclosed:
☒ Check ☐ Money Order ☐ Other

3. ☐ Applicant(s) is entitled to small entity status.
See 37 CFR 1.27.

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge – late filing fee or oath	
1052	50	2052	25	Surcharge – late provisional filing fee or cover sheet.	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1,020	2253	510	Extension for reply within third month	
1254	1,590	2254	795	Extension for reply within fourth month	
1255	2,160	2255	1,080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	500.00
1402	500	2402	250	Filing a brief in support of an appeal	
1452	500	2452	250	Petition to revive – unavoidable	1,500.00
1453	1,500	2453	750	Petition to revive – unintentional	
1501	1,400	2501	700	Utility issue fee (or reissue)	
1502	800	2502	400	Design issue fee	
1504	300	2504	300	Publication Fee	
1462	400	1462	400	Petitions Director not specifically provided for Group I	
1463	200	1463	200	Petitions Director not specifically provided for Group II	
1464	130	1464	130	Petitions Director not specifically provided for Group III	
1806	180	1806	180	Submission of information Disclosure Stmt	180.00
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
Other fee (specify) _____					
Other fee (specify) _____					

FEE CALCULATION

1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid	
Fee Code	Fee (\$)	Fee Code	Fee (\$)			
1011	300	2011	150	Utility filing fee		
1111	500	2111	250	Utility Search fee		
1311	200	2311	100	Utility Examination fee		
1081	250	2081	125	Utility Application Size Fee		
1005	200	2005	100	Provisional Application Fee		
1085	250	20835	125	Provisional Application Size Fee		
SUBTOTAL (1)					(\$)	0.00

2. EXTRA CLAIM FEES

Total Claims	Highest Paid Claims	Extra Claims	Fee from Below	Fee Paid
-20**=	0	x	50.00	= 0.00
Independent Claims	-3**=	0	x	200.00 = 0.00
Multiple Dependent				

**or number previously paid, if greater; For Reissues, see below

Large Entity Fee Code	Fee (\$)	Small Entity Fee Code	Fee (\$)	Fee Description
1202	50	2202	25	Claims in excess of 20
1201	200	2201	100	Independent claims in excess of 3
1203	360	2203	180	Multiple dependent claim, if not paid
1204	200	2204	100	**Reissue independent claims over original patent
1205	50	2205	25	**Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)**0.00**

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$)**2,180.00**

SUBMITTED BY

Name (Print/Type) CHRISTOPHER J. PALERMO
Signature Christopher J. Palermo
Registration No. (Attorney/Agent) 42,056
Telephone (408) 414-1080
Date July 21, 2005

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, Patent and Trademark Office, Washington, DC 20231.
DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Amend, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.